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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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EXAMINER
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ART UNIT	PAPER NUMBER
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**DATE MAILED:**

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.

08/910,980

Applicant(s)

Thomas D. Petite

Examiner

Douglas X. Rodriguez

Group Art Unit

2876



X Responsive to communication(s) filed on Aug 7, 1997

This action is **FINAL**.

Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire three month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

X Claim(s) 1-15 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

Claim(s) \_\_\_\_\_ is/are allowed.

X Claim(s) 1-15 is/are rejected.

Claim(s) \_\_\_\_\_ is/are objected to.

Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

X See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

X The specification is objected to by the Examiner.

The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been received.

received in Application No. (Series Code/Serial Number) \_\_\_\_\_

received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_

Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

X Notice of References Cited, PTO-892

X Information Disclosure Statement(s), PTO-1449, Paper No(s). 2, 3

Interview Summary, PTO-413

X Notice of Draftsperson's Patent Drawing Review, PTO-948

Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

**DETAILED ACTION**

***Specification***

1. The disclosure is objected to because of the following informalities: on page 1, line 6 the serial number of the application of which this is a continuation-in-part has not been provided by applicant.

Appropriate correction is required.

2. The numbering of claims is not accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

Misnumbered claims 9-14 have been renumbered 10-15.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claims 1-8, 12-15 drawn to the system and claims 9-11 drawn to the method are rejected under 35 U.S.C. 103(a) as being unpatentable over Gutman et al. U.S. Patent No. 5,221,838.

Gutman discloses a system for transmitting billing information to a communication device comprising: receiving means (512) operatively associated with a communication device for receiving data (fig. 5B), and a remote access unit having (510) a memory (206) configured to store user identification data (column 7, lines 54-56) and a low-power transmitter (224) adapted to transmit the user identification data to the receiving means (column 12, lines 64-68; column 13, lines 1-5).

Gutman differs from the claimed invention in that it fails to specifically state that the remote access unit (510) has a manually-operated transmit button to controllably retrieve user identification data from the memory and transmit the user identification data from the transmitter. Gutman does however disclose the presence of a keyboard (102), function keys (104) and buttons (106) for receiving user input (column 4, lines 55-58). Gutman also discloses the step of transmitting as well as receiving data from a financial institution (column 4, lines 39-42 and column 8, lines 43-49). Although Gutman does not explicitly state the presence of a transmit button, it is notoriously well known in the art that in order for a transaction to proceed some activating button must first be pressed. For example when withdrawing money from an ATM, the operator must first confirm the transaction by

1 depressing a button upon which the transaction proceeds. In the same fashion, in order for  
2 Gutman's system to operate and transmit data from the electronic wallet to a financial  
3 institution, a transmit button must be activated. For this reason it would have been obvious to  
4 provide Gutman with the claimed transmit button.

5 In regards to claim 2, wherein it is claimed that the user identification data includes a  
6 financial account number, Gutman teaches such claimed limitation (column 7, lines 54-57).

7 As for claim 3, wherein it is claimed that the user identification data includes a long  
8 distance billing account number, Gutman fails to teach such limitation. Gutman simply  
9 discloses the transmission of financial data, however, to transmit any kind of information  
10 would have been obvious to one of ordinary skill in the art at the time of the invention. This  
11 would have been done with the purpose of expediting the transaction process as well as for  
12 providing means that are safe and secure to use.

13 As for claims 4 and 11, wherein it is claimed that the receiving means receives  
14 electromagnetic data in a wavelength selected from the group consisting of: radio frequency;  
15 ultrasonic; and infra-red, Gutman teaches such claimed limitation (column 8, lines 43-47).

16 In regards to claims 5 and 6, wherein it is claimed that the electronic circuitry that  
17 carries out the functionality of the remote access unit is contained within a single integrated  
18 circuit and that the remote access unit includes means form formatting the user identification

1 data into a data packet for transmission to the receiving means, Gutman teaches all such  
2 claimed limitations (column 8, lines 47-58).

3 As for claim 8, wherein it is claimed that the communication device is one selected  
4 from the group consisting of: a telephone, a modem, an ISDN converter, and a cable box,  
5 such limitations are met by Gutman (column 9, lines 10-13).

6 In regards to claim 10, wherein it is claimed the step of authorizing use of the  
7 communication device, based upon information obtained received in response to the step of  
8 transmitting the extracted information for authorization, Gutman teaches such limitation  
9 (column 7, lines 54-68; column 8, lines 17).

10  
11 *Conclusion*

12 5. The prior art made of record and not relied upon is considered pertinent to applicant's  
13 disclosure.

14 Tait et al. U.S. Patent No. 5,550,358. Discloses a remote wireless transaction system which  
15 has a hand-held transmitter.

16 Koenck et al. U.S. Patent No. 5,468,948. Discloses a hand-held data terminal.

17 Kaehler U.S. Patent No. 4,967,366. Discloses an integrated gasoline dispenser and POS  
18 authorization system with a remote system.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Douglas X. Rodriguez whose telephone number is (703) 308-4081.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Donald T. Hajec, can be reached on (703) 308-4075. The fax phone number for this Group is (703) 308-7723.

Communications via Internet e-mail regarding this application, other than those under 35 U.S.C. 132 or which otherwise require a signature, may be used by the applicant and should be addressed to [\[don.hajec@uspto.gov\]](mailto:don.hajec@uspto.gov).

All Internet e-mail communications will be made of record in the application file. PTO employees do not engage in Internet communications where there exists a possibility that sensitive information could be identified or exchanged unless the record includes a properly signed express waiver of the confidentiality requirements of 35 U.S.C. 122. This is more clearly set forth in the Interim Internet Usage Policy published in the Official Gazette of the Patent and Trademark on February 25, 1997 at 1195 OG 89.

7. If the applicant wishes to send a fax transmission which may be intended as non-official for consideration by the examiner for interviews or other purposes, the fax should be clearly marked:

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Representative: James W. Kayden

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1.) "DRAFT" and/or "COURTESY COPY" on the fax cover sheet along with a statement "DELIVER DIRECTLY TO EXAMINER", and

2.) Should be unsigned by the attorney or agent.

This will ensure that such an un-official fax transmission will not be entered into the application.

*Papers related to the application may be submitted to Group 2800 by fax transmission. Papers should be faxed to Group 2500 via the PTO Fax machine located in Crystal Plaza 4. The form of such papers must conform with the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). The CP4 Fax Machine is: (703) 308-7722.*

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is:  
(703) 308-0956.

Donald Hajec  
Supervisory Patent Examiner  
Technology Center 2800

*Douglas X. Rodriguez*

Douglas X. Rodriguez

Patent Examiner

GAU 2876

March 26, 1999